

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PATRICIA JONES,)	Case No. 5:16 CV 1736
)	
)	
Plaintiff,)	
vs.)	JUDGE JOHN R. ADAMS
)	
KENNETH KILEY, et al.,)	
)	
)	ORDER
Defendants.)	(Resolving Docs. #22 and #31)

This matter is before the Court on Plaintiff’s Motion for Remand (Doc. #22); and Defendant’s Motion to Dismiss and Response to Plaintiff’s Motion for Remand (Doc. # 31); and Plaintiff’s Reply thereto (Doc. #32). Pursuant to the Court’s Order permitting Plaintiff to join necessary parties Plaintiff has amended the Complaint. Plaintiff concedes that the Amended Complaint destroys diversity. (Doc. #22, ¶5) Plaintiff now requests pursuant to 28 U.S.C. § 1447 (e), that this Court remand this matter to State court. The Code section cited by Plaintiff, 28 U.S.C. § 1447, is titled “procedure after removal generally” and provides at part (e): “[i]f after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.”

This action is an original filing in Federal Court, pursuant to this Court’s diversity jurisdiction (Doc. #1, § 4), as such it was not removed from State court, and is not subject to the

post-removal remand procedure outlined in 28 U.S.C. § 1447 (e). Accordingly, in the absence of complete diversity of parties or any other basis for federal subject matter jurisdiction, Defendant's Motion to Dismiss is GRANTED, the matter is DISMISSED pursuant to Fed. R. Civ. Pro. 12 (h)(3) without prejudice.

IT IS SO ORDERED.

/s/ John R. Adams
U.S. DISTRICT JUDGE
NORTHERN DISTRICT OF OHIO

Dated: December 1, 2016